

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PENNSYLVANIA STATE CONFERENCE)	
OF THE NAACP, <i>et al.</i> ,)	
)	Civil Action No.: 1:22-cv-00339
Plaintiffs,)	
)	
v.)	Judge Susan P. Baxter
)	
AL SCHMIDT, <i>et al.</i> ,)	
)	
Defendants.)	

**INTERVENOR-DEFENDANTS' EXPEDITED MOTION
FOR A STAY PENDING APPEAL**

Intervenor-Defendants the Republican National Committee, National Republican Congressional Committee, and Republican Party of Pennsylvania and prospective intervenor Richard Marino support and seek to uphold free and fair elections on behalf of all Pennsylvanians. Intervenor-Defendants and Mr. Marino therefore respectfully move the Court to stay pending appeal its declaration and judgment that failing to count undated or misdated absentee or mail-in ballots violates 52 U.S.C. § 10101(a)(2)(B), *see* ECF Nos. 348, 350. Intervenor-Defendants and Mr. Marino submit the accompanying Memorandum of Law demonstrating that they are entitled to a stay pending appeal.

Time is of the essence. The Court's order and judgment already have altered the apparent outcome of an election after the fact, threaten to cause irreparable harm on January 1, 2024, the day after Mr. Marino's current term on the Towamencin Township Board of Supervisors ends, and issued on the eve of the imminent 2024 election cycle. Intervenor-Defendants and Mr. Marino therefore respectfully request that the Court expedite the briefing and decision on this motion. In particular, Intervenor-Defendants and Mr. Marino request that the Court set a deadline of Tuesday,

December 5, 2023, for any responses to this motion and a deadline of Thursday, December 7, 2023 for a reply in support of this motion, and resolve this motion no later than Friday, December 8, 2023. Intervenor-Defendants and Mr. Marino intend to file a notice of appeal of the Court's judgment by Monday, December 11, 2023.

Counsel for Intervenor-Defendants has contacted counsel for the other parties in the case. The Lancaster County Board of Elections has no objection to this motion.

Plaintiffs, Secretary Schmidt, the Erie County Board of Elections, the Elk County Board of Elections, and the Philadelphia County Board of Elections oppose this motion. The Montgomery County Board of Elections has no intention of consenting to this motion. The Allegheny County Elections Division will not consent to this motion.

The parties noted below (including parties the Court has dismissed from the action) take no position on this motion.¹ The Chester County Board of Elections is unable to provide a response within the time requested. The Bucks County Board of Elections is unable to consent at this time.

¹ Armstrong County Board of Elections; Bedford County Board of Elections; Blair County Board of Elections; Bradford County Board of Elections; Cameron County Board of Elections; Carbon County Board of Elections; Centre County Board of Elections; Columbia County Board of Elections; Crawford County Board of Elections; Dauphin County Board of Elections; Delaware County Board of Elections; Fayette County Board of Elections; Franklin County Board of Elections; Fulton County Board of Elections; Greene County Board of Elections; Huntingdon County Board of Elections; Indiana County Board of Elections; Jefferson County Board of Elections; Lawrence County Board of Elections; Lebanon County Board of Elections; Lehigh County Board of Elections; Monroe County Board of Elections; Montour County Board of Elections; Northampton County Board of Elections; Northumberland County Board of Elections; Perry County Board of Elections; Potter County Board of Elections; Snyder County Board of Elections; Somerset County Board of Elections; Sullivan County Board of Elections; Tioga County Board of Elections; Union County Board of Elections; Venango County Board of Elections; Washington County Board of Elections; Wayne County Board of Elections; Wyoming County Board of Elections; York County Board of Elections.

WHEREFORE, Intervenor-Defendants respectfully request that the Court GRANT this motion and STAY its final remedial order pending appeal.

Dated: December 1, 2023

Respectfully submitted,

/s/ Kathleen A. Gallagher

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